

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1292-01
Bill No.: HB 491
Subject: Criminal Procedure; Prisons and Jails
Type: Original
Date: March 27, 2015

Bill Summary: This proposal changes the minimum sentencing requirements for felons who have no previous prison commitments and are first-time dangerous felons.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2016	FY 2017	FY 2018
General Revenue	\$1,421,327	\$1,698,618	\$1,728,791
Total Estimated Net Effect on General Revenue	\$1,421,327	\$1,698,618	\$1,728,791

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2016	FY 2017	FY 2018
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 6 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2016	FY 2017	FY 2018
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2016	FY 2017	FY 2018
Total Estimated Net Effect on FTE	0	0	0

☐ Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$100,000 in any of the three fiscal years after implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2016	FY 2017	FY 2018
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Corrections (DOC)** state the proposed bill would reduce the mandatory time served for the dangerous felonies from eighty five percent to fifty percent. This would only apply to offenders with no previous commitments to DOC and no prior dangerous felonies. At present, the required percentage served drops to forty percent of sentence upon an offender reaching seventy years of age; this provision is unchanged by the current bill.

At present, there are a total of 4,356 offenders incarcerated with DOC who have a dangerous felony as their most serious sentence. These offenders have no prior prison commitments, are subject to the eighty five percentage time served policy at present, are not currently over the age of seventy, and will not attain seventy years of age before fifty percent of their sentences have been served. Of these offenders, 2,207 would become eligible for parole before the end of FY 2016 with the passage of this bill, while only 324 would be eligible under current laws.

During fiscal year 2014, there were a total of 400 offenders without a prior DOC commitment sentenced to prison terms for committing one of the dangerous felonies covered by this bill. These offenders received an average sentence of 181.7 months. At present, these offenders would serve an average of 154.3 months in prison. Under this bill, the Parole Board could release an offender after 50% of the sentence is served, and at their guideline release date of 107.9 months. If, instead, the Parole Board leaves offenders in prison until their conditional release date for which they will now be eligible, these offenders would serve an average of 139.7 months, a reduction of 14.6 months. It is difficult to accurately predict what actions the Parole Board will take when setting the release date of offenders who have committed serious violent and sex offenses. For offenders serving serious violent and sex offenses that are not statutorily defined dangerous felons the Parole Board often sets the release date above the guideline date and it would be unrealistic to predict that the Parole Board will always set the release date at the highest of the 50% minimum prison term or the guideline date. The impact statement, therefore, uses the conditional release date as a conservative estimate for the reduction in time served with implementation of this bill.

A reduction of 14.6 months for each of 400 offenders gives an average annual reduction of 487 offenders ($400 \times 14.6 / 12$). This is expected to be the long term impact of passage of this legislation and this includes the earlier release of offenders already incarcerated for these offenses. However, in the short term, the effect can be estimated as shown in the following table. The average yearly effect over the next ten fiscal years is a reduction of 383 offenders per year; the discrepancy between this estimate and the final estimate may be due to the fact that some new admissions will be released before ten years served, although the average is above ten. This

ASSUMPTION (continued)

represents a total reduction of 3,826 offender bed years during the period in question. Exact estimates for the change in Division of Adult Institution (DAI) and Parole Populations may be found in bold at the bottom of the table.

The impact on the field population is expected to be the opposite of the reduction in the prison population. The offenders will continue to serve the full amount of the sentence but more of it will be on parole.

FY16 FY17 FY18 FY19 FY20 FY21 FY22 FY23 FY24

Prison Population - Current Laws

Start of Year	4356	4432	4479	4526	4592	4652	4706	4750	4846
New Admissions	400	400	400	400	400	400	400	400	400
Releases - Current Inmates	324	353	353	334	340	346	356	304	225
Releases - New Admits	0	0	0	0	0	0	0	0	0
End of Year	4432	4479	4526	4592	4652	4706	4750	4846	5021

Prison Population - Proposed Changes

Start of Year	4356	3965	4023	4071	4149	4202	4269	4391	4564
New Admissions	400	400	400	400	400	400	400	400	400
Releases - Current Inmates	791	342	352	322	347	333	278	227	187
Releases - New Admits	0	0	0	0	0	0	0	0	0
End of Year	3965	4023	4071	4149	4202	4269	4391	4564	4777
Difference - DAI	-467	-456	-455	-443	-450	-437	-359	-282	-244
Difference - P&P	+467	+456	+455	+443	+450	+437	+359	+282	+244

ASSUMPTION (continued)

The DOC would assume this legislation will result in long term cost avoidance as indicated below:

	# to prison	Cost per year	Total Cost Prison - Savings	# to Probation & Parole	Cost per year	Total Cost Probation & Parole	Grand Total Prison and P&P - Savings
Year 1	467	\$6,105	\$2,851,035	(467)	\$2,453	(\$1,145,551)	\$1,421,237
Year 2	456	\$6,105	\$2,783,880	(456)	\$2,453	(\$1,118,568)	\$1,698,618
Year 3	455	\$6,105	\$2,777,775	(455)	\$2,453	(\$1,116,115)	\$1,728,791
Year 4	443	\$6,105	\$2,704,515	(443)	\$2,453	(\$1,086,679)	\$1,716,861
Year 5	450	\$6,105	\$2,747,250	(450)	\$2,453	(\$1,103,850)	\$1,778,869
Year 6	437	\$6,105	\$2,667,885	(437)	\$2,453	(\$1,071,961)	\$1,762,029
Year 7	359	\$6,105	\$2,191,695	(359)	\$2,453	(\$880,627)	\$1,476,476
Year 8	282	\$6,105	\$1,721,610	(282)	\$2,453	(\$691,746)	\$1,182,990
Year 9	244	\$6,105	\$1,489,620	(244)	\$2,453	(\$598,532)	\$1,044,052
Year 10	233	\$6,105	\$1,422,465	(233)	\$2,453	(\$571,549)	\$1,016,923

Officials from the **Office of Prosecution Services**, the **Office of the State Public Defender**, and the **Office of the State Courts Administrator** each assume the proposal would not fiscally impact their respective agencies.

FISCAL IMPACT - State Government

FY 2016
(10 Mo.)

FY 2017

FY 2018

GENERAL REVENUE FUND

Savings - DOC - changes regarding the minimum sentencing requirements for certain felons

\$1,421,327

\$1,698,618

\$1,728,791

**ESTIMATED NET EFFECT TO THE
GENERAL REVENUE FUND**

\$1,421,327

\$1,698,618

\$1,728,791

<u>FISCAL IMPACT - Local Government</u>	FY 2016 (10 Mo.)	FY 2017	FY 2018
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

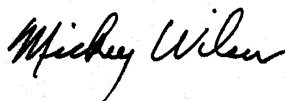
FISCAL DESCRIPTION

This bill specifies that any offender serving a sentence imposed on or after August 28, 1994, who has no previous prison commitments with the Department of Corrections for any felony offense and is a first-time dangerous felony offender must serve at least 50% of the sentence imposed by the court, or if the offender is at least 70 years of age, serve at least 40% of the sentence imposed, whichever occurs first.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Corrections
Office of the State Courts Administrator
Office of the State Public Defender
Office of Prosecution Services



Mickey Wilson, CPA
Director
March 27, 2015

Ross Strobe
Assistant Director
March 27, 2015